

STAYED,TYPE I-FOIA

**U.S. District Court**  
**District of Columbia (Washington, DC)**  
**CIVIL DOCKET FOR CASE #: 1:18-cv-02538-TSC**

MARKS v. UNITED STATES CENTERS FOR MEDICARE & MEDICAID SERVICES et al

Assigned to: Judge Tanya S. Chutkan

Cases: 1:18-cv-00915-TSC

1:18-cv-00949-TNM

Cause: 05:552 Freedom of Information Act

**Plaintiff**

**DAVID T. MARKS**

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V.

**Defendant**

**UNITED STATES CENTERS FOR  
MEDICARE & MEDICAID  
SERVICES**

represented by **Daniel Patrick Schaefer**  
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**Defendant**

**UNITED STATES DEPARTMENT OF  
HEALTH AND HUMAN SERVICES**

represented by **Daniel Patrick Schaefer**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
11/02/2018	<u>1</u>	COMPLAINT against CENTERS FOR MEDICARE & MEDICAID SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES ( Filing fee \$ 400 receipt number 0090-5772305) filed by DAVID T. MARKS. (Attachments: # <u>1</u> Civil Cover Sheet)(Braverman, Burt) (Entered: 11/02/2018)

11/02/2018	<u>2</u>	NOTICE OF RELATED CASE by DAVID T. MARKS. Case related to Case No. 18cv915 and 18cv949. (Braverman, Burt) (Entered: 11/02/2018)
11/07/2018		Case Assigned to Judge Tanya S. Chutkan. (zsb) (Entered: 11/07/2018)
11/07/2018		SUMMONS Not Issued as to UNITED STATES CENTERS FOR MEDICARE & MEDICAID SERVICES, UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, U.S. Attorney, and U.S. Attorney General (zsb) (Entered: 11/09/2018)
11/09/2018	<u>3</u>	REQUEST FOR SUMMONS TO ISSUE filed by DAVID T. MARKS.(Curran, Patrick) (Entered: 11/09/2018)
11/09/2018	<u>4</u>	SUMMONS (4) Issued Electronically as to UNITED STATES CENTERS FOR MEDICARE & MEDICAID SERVICES, UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, U.S. Attorney and U.S. Attorney General (ztd) (Entered: 11/09/2018)
11/15/2018	<u>5</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES served on 11/13/2018 (Curran, Patrick) (Entered: 11/15/2018)
11/15/2018	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. UNITED STATES CENTERS FOR MEDICARE & MEDICAID SERVICES served on 11/13/2018 (Curran, Patrick) (Entered: 11/15/2018)
11/15/2018	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 11/14/2018. (Curran, Patrick) (Entered: 11/15/2018)
11/15/2018	<u>8</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 11/13/2018. Answer due for ALL FEDERAL DEFENDANTS by 12/13/2018. (Curran, Patrick) Modified dates of service and answer due on 11/16/2018 (ztd). (Entered: 11/15/2018)
11/16/2018		Set/Reset Deadlines: Answer due by 12/3/2018, (ztd) (Entered: 11/16/2018)
12/13/2018	<u>9</u>	NOTICE of Appearance by Daniel Patrick Schaefer on behalf of All Defendants (Schaefer, Daniel) (Entered: 12/13/2018)
12/13/2018	<u>10</u>	ANSWER to Complaint by UNITED STATES CENTERS FOR MEDICARE & MEDICAID SERVICES, UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7)(Schaefer, Daniel) (Entered: 12/13/2018)
12/13/2018		MINUTE ORDER: Before the Court in this FOIA case are a complaint and an answer. The requirements of LCvR 16.3 and Rule 26(f) of the Federal Rules of Civil procedure appear to be inapplicable. IT IS HEREBY ORDERED that the parties shall meet and confer and propose a schedule for proceeding in this matter. The schedule shall address the status of Plaintiff's FOIA request, the anticipated number of documents responsive to Plaintiff's FOIA request, the anticipated date(s) for release of the documents requested by Plaintiff, whether a motion for an Open America stay is likely in this case, whether a Vaughn index will be required in this case, whether and when either party anticipates filing a dispositive motion, and any other pertinent issues. The parties shall file a joint status report that addresses these issues no later than 2/8/19. The joint status report shall be accompanied by a proposed order. Signed by Judge Tanya S. Chutkan on 12/13/18. (DJS) (Entered: 12/13/2018)
12/17/2018		Set/Reset Deadlines: Joint Status Report due by 2/8/2019. (tb) (Entered: 12/17/2018)
02/08/2019	<u>11</u>	Joint MOTION to Stay by UNITED STATES CENTERS FOR MEDICARE & MEDICAID SERVICES, UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Text of Proposed Order)(Schaefer, Daniel) (Entered: 02/08/2019)
02/08/2019		MINUTE ORDER: Granting Joint Motion to Stay <u>11</u> . This action is hereby STAYED pending final resolution of either of two related cases pending before this Court in Tosh v. CMS, 18-CV-915 (TSC) (Tosh I) and Tosh v. CMS, 18-CV-949 (TNM)

		(Tosh II). The parties shall file a joint status report with the Court by May 9, 2019, advising the Court on the status of the proceedings in Tosh I and Tosh II. Additionally, the parties shall file a joint status report within 60 days of entry of a final unappealable order in either Tosh I or Tosh II, setting forth a proposal for handling this matter. The status report shall be accompanied by a proposed order. Signed by Judge Tanya S. Chutkan on 2/8/19. (DJS) Modified on 2/11/2019 (tb). (Entered: 02/08/2019)
02/11/2019		Set/Reset Deadlines: Joint Status Report due by 5/9/2019. (tb) (Entered: 02/11/2019)
02/26/2019		MINUTE ORDER: In light of the Stay entered in this action on 2/8/19, the Clerk of the Court is hereby directed to Administratively Close this case. However, the parties shall continue to file Status Reports as required by the 2/8/19 Minute Order. Upon a resolution of Tosh v. CMS, 18-CV-915 (TSC) (Tosh I) and Tosh v. CMS, 18-CV-949 (TNM) (Tosh II), the parties may file a motion to return this case to the court's active docket. Any such motion shall contain a proposed order for moving forward with this case. Signed by Judge Tanya S. Chutkan on 2/26/19. (DJS) (Entered: 02/26/2019)